

**The Regular/Special Meeting of the
Brian Head Town Council also
Acting as the Governing Body of the
Brian Head Special Service District &
Redevelopment Agency
Town Hall Council Chambers
56 N. Hwy 143, Brian Head, UT 84719
TUESDAY, JUNE 11, 2013 @ 11:00 AM**

Member Present: Mayor H. C. Deutschlander, Council Member Linda Ames, Council Member Jim Ortler, Council Member Larry Freeberg, Council Member Clayton Calloway
Staff Present: Bret Howser, Nancy Leigh, Cecilia Johnson, Wendy Dowland, Tom Stratton, Chet Hovey (Town Engineer), Dan Benson

A. CALL TO ORDER

Mayor/Chair Deutschlander called the regular meeting of the Brian Head Town Council and special meeting of the Brian Head Special Service District and Redevelopment Agency to order at 11:10 AM.

B. CLOSED SESSION OF THE TOWN COUNCIL. To discuss the sale, exchange, lease or purchase of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction; a strategy session to discuss collective bargaining and discuss the sale of real property.

Motion: Council Member Ortler moved to enter into closed session to discuss the sale, exchange, lease or purchase of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction and a strategy session to discuss collective bargaining and discuss the sale of real property. Council Member Calloway seconded the motion.

Action: **Motion carried 5-0-0, roll call vote (summary: Yes = 5 Vote: Yes:** Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).

The Council entered into closed session at 11:11 AM.

Motion: Council Member Ortler moved to reconvene the regular meeting of the Town Council at 1:00 pm. Council Member Calloway seconded the motion.

Action: **Motion carried 5-0-0, roll call vote (summary: Yes = 5 Vote: Yes:** Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).

The closed session of the Town Council was adjourned at 12:45 PM

C. RECONVENE MEETING

The regular meeting of the Town Council, Special Service District and Redevelopment Agency was reconvened at 1:00 PM.

D. PLEDGE OF ALLEGIANCE

Mayor/Chair Deutschlander led the Council/Board and others in the Pledge of Allegiance.

E. DISCLOSURES

There were no conflicts of interest with today's agenda items. Mayor/Chair Deutschlander stated that the disclosure statements are on file at the Clerk's office and are available for public inspection during normal business hours.

F. APPROVAL OF THE MINUTES: May 28, 2013 Town Council/SSD/RDA Minutes

- Motion:** Council/Board Member Ortler moved to approve the minutes of the Council acting as the Special Service District Board and Redevelopment Agency Board meeting for May 28, 2013. Council/Board Calloway seconded the motion.
- Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Mayor/Chair Deutschlander, Council/Board Member Freeberg, Council/Board Member Calloway, Council/Board Member Ortler, Council/Board Member Ames).**

G. PUBLIC INPUT/ REPORTS (Limited to three (3) minutes) Non-Agenda Items

Nancy Leigh, Town Clerk, reported the filing for candidacy ended on Friday, June 7, 2013 for the 2013 Municipal Election. There were two individuals who filed for the Mayor's seat and three individuals who filed for the two open council seats.

Mayor Deutschlander

1. Thanked Tom Stratton and Chet Hovey on submitting the town's application to Community Impact Board (CIB) for their consideration on funding. On May 29, 2013, the C I B will be reviewing nine projects for funding in the five county areas.
2. The report for the Southwest Utah soil moisture saturation is 67%. With such low moisture levels, there is an increased fire danger for the area.

Council Member Ames commented on the annual Brian Head Clean-up Day in which a large number of participants participated in the annual clean-up. One interested individual who participated in the clean-up suggested to Council Member Ames that the Council consider placing a ban on plastic bags in order to reduce the amount of garbage left in the town.

Tom Stratton, Public Works Director, reported the first wall of the Bearflat pump house was poured today.

Tyler Hunt, DoubleTree Hilton, explained that his grandfather, Lynn Leany, owner of the DoubleTree Hilton Hotel passed away recently and he and his brother have been running the hotel. The current General Manager, Tim Masales, has given his two week notice and the hotel is experiencing financial difficulty. Mr. Hunt requested to be on the next Council agenda for consideration of relief from their current utility billing. Mr. Hunter reported there is a potential buyer and is interested in converting the hotel to timeshares if the zoning will allow. Bret Howser, Town Manager, requested Mr. Hunt to meet with him on their options for zoning.

H. AGENDA TOPICS:

1. INTRODUCTION TO PUBLIC HEARINGS. Public Hearing on the following three items:

A. Municipal Transient Room Tax of 1% on all nightly lodging businesses.

Cecilia Johnson, Town Treasurer, explained the Council directed staff to review the current taxes collected by the town to determine additional revenue sources for the town. This additional tax would apply to all nightly lodging businesses which currently collect the transient room tax that goes to the County. Council Member Freeberg inquired if the municipal transient room tax applied to timeshares? Cecilia reported the tax does apply to timeshares.

B. Resort Community Tax increase from 1.5% to 1.6% on all taxable sales except for unprepared food.

Bret Howser, Town Manager, reported the tax was levied on all sales until 2007 when the state removed the unprepared food from the sales tax. They allowed the resort communities to recover 1% from the sales in loss of unprepared food sales taxes, but Brian Head did not implement the tax at the time when it first was an option.

C. Amendment of the 2012-2013 budgets of the Town/SSD/RDA.

Cecilia Johnson, Town Treasurer, reported staff is still in the process of amending the budget with the revenue and expenditures that are still continuing to come in. A copy of the budget is available to the public for their review.

2. PUBLIC HEARINGS:

- Motion:** Council Member Ames moved to recess the regular meeting and open the public hearings. Council Member Freeberg seconded the motion.

Action: Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).

The regular meeting of the Town Council/Special Service District and Redevelopment Agency was recessed at 1:15 pm.

a) Imposing a Municipal Transient Room Tax in the amount of 1.0% for all rents charged on use of public accommodations for less than 30 consecutive days in a motel, hotel, inn, bed & breakfast, condominium, resort home, campground or recreational vehicle park, as per Utah Code 59-12-352-353.

Bob Whitelaw, Alpine Lodging & Condo Rentals, commented that the town currently charges 13.6% for nightly rentals. With the approval of this tax increase it will now be 14.7% and is getting to a point that the town keeps taxing the guests and they are questioning it, but it is less than downtown Los Angeles. The town is approaching 15% of tax to the guests, with 4.25% for the transient room taxes going to the town and he has a concern that the town is getting too high in the taxes to the guests.

Aaron Bradley, Brian Head Vacation Rentals, commented he also shares the concerns of Bob Whitelaw and would not be opposed to the increase in tax but would like to know what the town is doing with the revenue. The Tourism Bureau has put some money into the area and Brian Head currently brings in 41% of the total income and he believes that the customers are being penalized and not receiving a lot of return on the investment. Mr. Bradley would like to know what the town will be doing with the additional revenue.

There were no other comments on the Municipal Transient Room Tax. Mayor Deutschlander closed the portion of the public hearing for the Municipal Transient Room Tax at 1:20 p.m.

b) Increasing the Resort Communities Tax from 1.5% to 1.6% on all taxable sales, as per Utah Code 59-12-401-402.

Bob Whitelaw, Alpine Lodging and Condo Rentals, commented that a few years ago the town showed the public where the revenue was to be spent, in that it was identified for a shuttle service with the excess being used for snow removal for the service. Mr. Whitelaw stated his concerns regarding where does the benefit the guests if the town is increasing the taxes. He disagrees on how the funds are being communicated to the public and he would like a better accounting and would like to know where the revenue goes to.

Aaron Bradley, Brian Head Vacation Rental. Would like to know what the benefit is for the increase of 0.1%.

Burke Wilkerson, Brian Head Resort, commented he shares the same concerns as Mr. Whitelaw and Mr. Bradley in which he believes the town is going to reach a point in time when the elasticity of what the consumers are willing to spend and if the town keeps charging the guests more and more, the Resort will have no alternative but to pass it along to the guests until it won't be a family friendly economical alternative for the family to ski and who will be looking up north to a bigger resort for their vacation. Mr. Wilkerson went on to explain he does not know where the additional funds are going, but would like an accounting of the revenues. Need to know how much the guests are willing to stay and the impact on the length of their stay in Brian Head since we are all in it together.

There were no other comments on the increase in resort community taxes of 0.01%. Mayor Deutschlander closed this portion of the public hearing at 1:26 pm.

c) Amendment of the 2012-2013 Brian Head Town/RDA/SSD budgets ending June 30, 2013.

Cecilia Johnson, Town Treasurer, reported staff is in the process of amending the current budget and copies are available to the public. Cecilia went on to explain there are expenditures still coming in.

There were no other comments on the 2012-2013 amended budget. The public hearing was closed at 1:30 pm.

Motion: Council Member Freeberg moved to close the public hearing. Council Member Ames seconded the motion.

Council Member Ortler responded to Mr. Whitelaw's comments regarding the Retail Business License Fee (Shuttle Fee) and the resort tax issue in which Mr. Whitelaw confused the resort tax with the shuttle fee. The state legislature recognized the need for

resort communities to recoup some of the lost sales taxes due to the distribution of sales taxes based on permanent population, resort communities are allowed to collect 1.6% and all of the revenue goes into the General Fund which supports the town government.

Council Member Ortler went on to explain that the Council has demonstrated they take tax rates seriously since the Council has reduced the town's portion of property taxes by 5% each year for the past two years. The state made changes in the sales taxes distribution and the town was grandfathered for a number of years and the town received a guaranteed \$127,000 annually in sales taxes. This "Hold Harmless Agreement" is now nearing the expiration of the agreement in 2014.

Bret Howser, Town Manager, reported there is an increased force on events and economic development and the revenue would be help in pushing the events and economy hopefully resulting in more visitors.

Mayor Deutschlander explained the Hold Harmless Agreement that the town has with the state in which the town has to make up the shortfall in revenue. Mayor Deutschlander went on to comment that guests expect certain amenities from the town and those services need to meet that demand. Currently the County charges a 4.25% transient room tax which is the maximum amount of what the Council can assess.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).**

The public hearings were closed at 1:40 pm.

3. PLANNING COMMISSION APPOINTMENTS. Appointment of Planning Commission Member and Alternate Member.

Bret Howser, Town Manager, explained Council Member Calloway resigned from the Planning Commission to become a Council Member which left a vacancy in the Planning Commission. Aaron Bradley is currently the alternate member and he would like to recommend Mr. Bradley be appointed as a Planning Commission Member and to appoint Mr. Richard Derios as the alternate member (see attached).

Motion: Council Member Ames moved to appoint Aaron Bradley as a full member of the Planning Commission and Richard Derios as the alternate Planning Commission member for a term of five years. Council Member Ortler seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).**

4. BID AWARD FOR WATER TENDER VEHICLE. Bid award for the water tender vehicle for the Fire Dept.

Dan Benson, Public Safety Director, presented the bid tabulation for the water tender vehicle (see attached). Chief Benson explained the Council budgeted \$80,000 for a water tender vehicle based on information available during the budget retreat. Staff has sent out requests for proposals and received four bids in which two of the bids were for new vehicles costing over \$200,000. Chief Benson recommended the Council award the bid for the water tender vehicle to Truck Works Inc. in the amount of \$122,806.54 since this bid included everything needed for the department. The funds will come from the Wildland Fire Fund which was established to purchase vehicles and equipment for the fire department. With the purchase of this vehicle, the fund will be depleted, but with fire season coming up, the department will be receiving additional revenue.

Chief Benson distributed a spreadsheet showing the average of revenue the town receives from wildland fires (see attached). Chief Benson went on to report the town receives an average of \$55,000 annually from wildland fires.

Mayor Deutschlander reported the vehicle will also support the town in maintain the ISO rating since the town is surrounded by forest and not all lots are serviced by the town's water infrastructure. Council Member Ortler commented the wildland fund purpose was to purchase vehicles and equipment and he believes this is what the fund was intended for.

Motion: Council Member Freeberg moved to award the water tender vehicle bid to Truck Works, Inc. in the amount not to exceed \$122,806.54 as presented. Council Member Ortler seconded the motion.

Discussion was held regarding the following:

1. Council Member Ames' concern regarding the depletion of the wildland fire fund to \$100.00 and the department requesting additional funds to continue until revenue comes in.
2. The original cost identified for the water tender vehicle was \$80,000.
3. The shortage of fire personnel who are certified to run certain pieces of equipment has been an issue for Brian Head, but with the water tender vehicle, the majority of the firefighters are qualified to run the vehicle in a non-tactical tender.

Action: **Motion carried 3-2-0 (summary: Yes = 3, No = 2, Abstain = 0 Vote: Yes:** Mayor Deutschlander, Council Member Freeberg, Council Member Ortler. **No:** Council Member Calloway, Council Member Ames).

5. PROPOSED ORDINANCE ADOPTING THE 2013-2014 BRIAN HEAD TOWN/RDA/SSD BUDGETS ENDING JUNE 30, 2014. An Ordinance adopting the 2013-2014 budget beginning July 1, 2013.

Bret Howser, Town Manager, presented a proposed ordinance amending the 2013-2014 budget ending June 30, 2014 for the Town/SSD/RDA budgets (see attached). Bret explained the town has not yet received the certified tax rate from the County, but there is a provision in the ordinance which allows the Town Manager to implement the Certified Tax Rate for the town once it is available from the County.

Motion: Council/Board Member Ortler moved to adopt Ordinance No. 13.002, an ordinance adopting the 2013-2014 Town/Special Service District/ Redevelopment Agency budgets ending June 30, 2014. Council/Board Member Ames seconded the motion.

Mayor/Chair Deutschlander reported staff has been asked to complete a study of how many gallons of water that comes out of the Salt Pile Springs with no pumping costs involved vs. pumping water out of a well. This will be an item discussed for the development of Salt Pile Springs collection area and possibly amending the budget.

Action: **Motion carried 5-0-0, roll call vote (summary: Yes = 5 Yes:** Mayor/Chair Deutschlander, Council/Board Member Freeberg, Council/Board Member Calloway, Council/Board Member Ortler, Council/Board Member Ames).

6. PROPOSED ORDINANCE IMPOSING A MUNICIPAL TRANSIENT ROOM TAX ON ALL RENTS CHARGED ON USE OF PUBLIC ACCOMMODATIONS FOR LESS THAN 30 CONSECUTIVE DAYS. An ordinance imposing the Municipal Transient Room Tax to start October 01, 2013. 13-003

Motion: Council Member Ortler moved to adopt Ordinance No. 13-003, an Ordinance imposing a Municipal Transient Room Tax on all rents charged on use of public accommodations for less than 30 consecutive days. Council Member Freeberg seconded the motion.

Council Member Ames reported that in going through the budget process, she has witnessed every year the needs of the town increases. The town raised the property taxes in 2008 and Brian Head has one of the highest property taxes in Iron County. Council Member Ames went on to comment she does not want to look at increasing property taxes to make up for the shortfalls and believes the implementation of the transient room tax may be another way to make up some of the revenues.

Action: **Motion carried 5-0-0, roll call vote (summary: Yes = 5 Yes:** Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).

7. PROPOSED ORDINANCE INCREASING THE RESORT COMMUNITIES TAX FROM 1.5% TO 1.6% ON ALL TAXABLE SALES. An ordinance increasing the resort communities' tax from 1.5% to 1.6% starting October 01, 2013.

Motion: Council Member Ortler moved to adopt Ordinance 13-004, an Ordinance increasing the Resort Communities Tax from 1.5% to 1.6% on all taxable sales. Council Member Ames seconded the motion.

Action: **Motion carried 5-0-0, roll call vote (summary: Yes = 5 Yes: Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).**

8. BRIAN HEAD USDA PARTIAL PAY REQUESTS FOR MAY, 2013. The partial pay requests for the USDA projects for May 2013.

Chet Hovey, Town Engineer, presented the following partial pay requests for May 2013:

- **Administration Partial Pay Request #45** in the amount of \$51,131.25 (see attached).

Council Member Ortler inquired as to the number of project engineers that are on a project that would bill the town for 199 hours in a single month. Chet replied there are five different individuals who have different titles; construction manager and there are typically five to six different categories. Council Member Freeberg requested the invoice define the project engineer for clarification purposes.

Motion: Council Member Freeberg moved to approve Administration Partial Pay Request #45 in the amount of \$51,131.25 as presented. Council Member Ames seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Yes: Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).**

- **Restoration Reservoir Project Contractor, JP Excavating Partial Pay Request #1** in the amount of \$196,270 (see attached).

Discussion took place regarding blasting at the town pit for the project which was not included as a unit cost to the town. Council Member Ames reported on a phone call from a concern citizen regarding the blasting at the town pit. Mayor Deutschlander inquired as to the liability of blasting and who is responsible if there is damage to the homes in the area. Council Member Ames requested staff inform Council if there are to be changes in the contract.

Motion: Council Member Calloway moved to approve Restoration Reservoir Project Contractor, JP Excavating Partial Pay Request #1 in the amount of \$196,270 as presented. Council Member Ortler seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Yes: Mayor Deutschlander, Council Member Freeberg, Council Member Calloway, Council Member Ortler, Council Member Ames).**

9. BRIAN HEAD RESTORATION RESERVOIR PROJECT DISCUSSION & DIRECTION. Reservoir Restoration additional items for the project.

Tom Stratton, Public Works Director, presented a drawing of the proposed reservoir. The Council held discussion on the following:

1. An accounting report on the Administration pay requests: The cost is \$308,000 over and above the 2.8 million dollars, giving a tentative cost of 3.1 million dollars for the project.
2. Council Member Ames inquired if engineering costs are identified in the projected cost of the project. Chet responded the \$158,000 is the balance in the Administration portion of the project which includes engineering, legal and consultants. Chet went on to explain the Administration also includes the Bearflat pump house project which is also being constructed. Staff will split the cost and report back to Council.
3. The USDA currently has a balance total of \$800,000 which can be used for the reservoir project and will be expended in the next two months.
4. The Council expressed their concerns regarding the total cost for the project in which it was first identified at 2.6 million, but has steadily increased and is now being projected at 3.2 million dollars for the project.
5. Council Member Ortler stated the Council needs to know what the total project is going to be including the blasting before the cost is incurred.
6. Bret Howser, Town Manager, clarified the following for the Council and public: \$800,000 will be identified from USDA, in which \$158,000 is part of the \$800,000, giving a lower balance of \$650,000 from USDA. \$600,000 will be identified from the Redevelopment Agency.

Approved July 9, 2013

The Council then addressed the site improvement list for the project. These item costs are over and above the current contract for the reservoir. Chet presented two options for the Council to review: Option B in which items 5 & 7 the blasting cost is not included. Option C in which items 5 & 7 the blasting is included in the cost.

Consensus of the Council:

1. **Fishing Dock:** Not at this time, will address at a later date.
2. **Rock Walls:** Rock will be 2' to 5' in diameter at a 1-1 slope and is 15' in height. A tentative cost of \$320,000 at \$16.00 p/sq. foot was presented.
3. **Armor Rock:** Smaller rock and is a 3-1 slope.
4. **Sand Beach:** \$22,000 approximate cost with 1" rock at a 5-1 slope.
5. **Fishery stocking access:** Staff will proceed with this item.
6. **Stairs from the Fire Station:** Not at this time, will address at a later date.
7. **Hydro seeding:** Staff will proceed will hydro seeding.

Staff will present the information for approval during the June 25th Council Meeting.

I. ADJOURNMENT

Motion: Council/Board Member Ortler moved to adjourn the regular meeting of the Brian Head Town Council for June 11, 2013. Council/Board Member Calloway seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Yes: Mayor/Chair Deutschlander, Council/Board Member Freeberg, Council/Board Member Calloway, Council/Board Member Ortler, Council/Board Member Ames).**

The regular/special meeting of the Brian Head Town Council, Special Service District and Redevelopment Agency was adjourned at 3:10 pm for June 11, 2013.

July 9, 2013

Date Approved

Nancy Leigh, Town/District Clerk